

RECEIVED
U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

MAR 28 2024 UNITED STATES DISTRICT COURT

DANIEL J. McCOY, CLERK WESTERN DISTRICT OF LOUISIANA

BY

LAKE CHARLES DIVISION

UNITED STATES OF AMERICA * CRIMINAL NO.
* 18 U.S.C. §§ 1343, 1001(a)(2), 981
VERSUS * 28 U.S.C. § 2461
*
JENILEA PENA (01) *

INDICTMENT

2:24-cr-00053-01
Judge Cain
Magistrate Judge LeBlanc

THE GRAND JURY CHARGES:

COUNT 1
Wire Fraud
18 U.S.C. § 1343

A. INTRODUCTION

At all times material herein:

1. The defendant, JENILEA PENA, was a member of RJTH, LLC. RJTH, LLC operated a Planet Nutrition in Lake Charles, Louisiana and consisted of three members, including the defendant, who owned a 25% interest, R.P., who owned a 25% interest, and T.R., who owned a 50% interest.

2. On March 13, 2020, President Trump declared the ongoing Coronavirus Disease 2019 (COVID-19) pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207.

3. The Coronavirus Aid, Relief, and Economic Security Act ("CARES" Act) was a federal law enacted on March 27, 2020, designed to provide emergency financial

assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of the Economic Injury Disaster Loan (“EIDL”) program. EIDL is a Small Business Administration (“SBA”) program that provides low-interest funding to small businesses, renters, and homeowners affected by declared disasters.

4. Any funds issued under an EIDL were issued directly by the SBA, which is an agency of the United States government. EIDL funds shall be used solely as working capital for the applicant.

5. EIDL applications are received in cloud-based platforms. The location of the server through which the EIDL application is submitted is based on the date the application was processed by SBA and the application number. During the time period relevant to this indictment, EIDL applications with a prefix of 33 were received in a cloud-based platform through SBA servers located in West Des Moines, Iowa.

B. THE SCHEME TO DEFRAUD

6. Beginning on or about March 31, 2020, and continuing through March 8, 2021, the defendant, JENILEA PENA, in the Western District of Louisiana, knowingly devised a scheme to defraud RJTH, LLC and/or T.R., by employing false material representations to the SBA, in order to obtain money and property for her own personal use and benefit, and causing transmittal of wire communications in interstate commerce for the purpose of executing such scheme.

C. MANNER AND MEANS OF THE SCHEME TO DEFRAUD

It was part of the scheme that:

7. Without T.R.'s knowledge, on or about March 31, 2020, the defendant, JENILEA PENA, began the process of submitting materials to the SBA requesting EIDL funding through EIDL Application No. 3300653654, for the business, RJTH, LLC. In this application, the defendant certified as to the truthfulness of the information in this application, including that the application was submitted on behalf of the individual owners of RJTH, LLC, those being T.R., R.P., and the defendant.

8. On or about May 8, 2020, as a requirement to receive the loan funds, the defendant, JENILEA PENA, electronically signed a Loan Authorization and Agreement on behalf of RJTH, LLC, without T.R.'s knowledge. As part of this agreement, the defendant agreed that all of the proceeds of this loan would be used as working capital for RJTH, LLC.

9. On or about June 9, 2020, because of the defendant's false material representations to the SBA, the defendant caused a wire transfer in the amount of \$96,900¹ from the SBA/United States Treasury to RJTH, LLC's Hancock Whitney bank account ending in XXXX1879.

10. Thereafter, without T.R.'s knowledge, the defendant used these EIDL loan funds for her own personal use and benefit, and not for the sole working capital for RJTH, LLC.

11. On or about March 8, 2021, in order to remain in compliance on the \$97,000 loan received from the SBA for RJTH, LLC, the defendant, without T.R.'s

¹ Pursuant to the Loan Authorization and Agreement, a third-party UCC handling charge of \$100 was deducted from the loan amount of \$97,000 prior to disbursement.

knowledge, electronically submitted a fraudulent and fictitious resolution of the board of directors of "Planet Nutrition, LLC", falsely representing that it was signed by T.R., and falsely stating that this resolution was a true and correct copy presented at a meeting held on December 15, 2020.

D. THE CHARGE

12. On or about June 9, 2020, in the Western District of Louisiana and elsewhere, the defendant, JENILEA PENA, for the purpose of executing the scheme described above, caused to be transmitted by means of wire communication in interstate commerce, certain signals, signs, and sounds; that is, a wire transfer of \$96,900 from the SBA/United States Treasury to a Hancock Whitney bank account ending in XXXX1879, all in violation of Title 18, United States Code, Section 1343 [18 U.S.C. § 1343].

COUNT 2
False Statement or Representation Made
to a Department or Agency of the United States
18 U.S.C. § 1001(a)(2)

1. That on or about March 8, 2021, the defendant, JENILEA PENA, did willfully and knowingly make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, by representing to the Small Business Administration that the defendant, R.P and T.R. were members of a business called "Planet Nutrition, LLC"; that a resolution was presented on December 15, 2020; and that such resolution was signed by T.R.

2. The defendant's false statements and representations were made by the defendant in the Western District of Louisiana.

3. The defendant's statements and representations were false because, as the defendant then and there knew that she, R.P. and T.R. were not members of a business called "Planet Nutrition, LLC"; that she, R.P. and T.R. did not have a meeting on December 15, 2020; and that T.R. did not sign this resolution.

All in violation of Title 18, United States Code, Section 1001(a)(2) [18 U.S.C. § 1001(a)(2)].

FORFEITURE ALLEGATIONS

1. The allegations contained in this Indictment are hereby realleged and incorporated herein by this reference for the purpose of alleging forfeiture.

2. Pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), upon conviction of an offense in violation of 18 U.S.C. § 1343, as alleged in Count 1 of this Indictment, the defendant, JENILEA PENA, shall forfeit to the United States any property, real or personal, which constitutes or is derived from proceeds of the traceable offense.

A TRIAL JURY
REDACTED
JURY FOREPERSON

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